

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LUTHER B. MANUEL JR. and
GERTRUDE MANUEL, on behalf of
themselves and the class members described
herein,

Plaintiff,

v.

CALIBER HOME LOANS, INC.; U.S.
BANK TRUST, N.A., as Trustee of LSF8
MASTER PARTICIPATION TRUST;
WELLS FARGO DELAWARE TRUST
COMPANY, N.A., as Trustee for
VERICREST OPPORTUNITY LOAN
TRUST 2013 NPL2 and VERICREST
OPPORTUNITY LOAN TRUST 2014
NPL2; and DOES 1-25,

Defendants.

Civil Action No. 14-5233 (SRC)

OPINION & ORDER

CHESLER, District Judge

This matter comes before the Court upon the motion filed by Plaintiffs to require Appellant, Karolyn E. Denson, the sole objector to the Class Action Settlement approved by this Court, to post an appeals bond. Federal Rule of Appellate Procedure 7 allows the district court to impose a bond in an “amount necessary to ensure payment of costs on appeal.” Fed. R. App. P. 7. In support of their motion, Plaintiffs argue that a bond is warranted because the appeal is frivolous, there is a risk of nonpayment because the Objector resides outside of this jurisdiction, the objection was filed in bad faith, and the Objector would have no financial difficulty posting the bond. Plaintiffs

requested a bond for \$38,750, with the vast majority of the sum, \$33,750, estimated to cover the administrative costs of managing the settlement fund pending the appeal, and the remainder for the preparation of the Appellees' brief, appendix, and record. Objector does not challenge the appropriateness of a bond, only the amount sought, contending that the "costs" of appeal allowable under Rule 7 are limited to the expenses enumerated in the Federal Rule of Appellate Procedure 39 – the costs of preparing and transmitting the record, charges for transcripts, premiums paid for supersedeas bonds, and filing fees for the notice of appeal.

Objector is incorrect. The Third Circuit Court of Appeals affirmed the inclusion of settlement fund administration costs in the bonded amount in *In re Nutella Marketing and Sales Practices Litigation*, 589 Fed. Appx. 53, 61 (3d Cir. 2014), which Objector made no effort to distinguish. The Court, in its discretion finds that in light of the moderate settlement amount, the Plaintiff Class is entitled to protection of the award from diminution through administrative costs. Since Appellant did not contest the accuracy of Plaintiffs' cost estimates, the Court finds that \$38,750 is reasonably necessary to ensure payment of costs on appeal. Accordingly,

IT IS on this 21st day of October, 2015,

ORDERED that the motion filed by the Plaintiff Class to require that a bond be posted by the Appellant [docket entry 62] is **GRANTED**; and it is further

ORDERED that, pursuant to Federal Rule of Appellate Procedure 7, the Objector shall post a bond in the amount of \$38,750 within 21 days of the date of this Order.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge